

REMARKS

Applicant appreciates the time taken by the Examiner to review Applicant's present application. This application has been carefully reviewed in light of the Official Action mailed August 19, 2008. Claims 1-2, 4, 6-8, 12-13, 15-16, 19, 23-24, 28 and 33 are amended herein. Claims 5, 10, 11, 18, 21, 22, 25-27, 28, 29, and 30-32 are canceled herein. No claims are added. No new matter is added. Accordingly, Claims 1-4, 6-9, 12-17, 19-20, 23-24, 28-29 and 33 remain pending. Applicant respectfully requests reconsideration and favorable action in this case.

Interview Summary

Pursuant to Applicant Initiated Interview Request submitted September 23, 2008, a telephonic interview was conducted on October 15, 2008 between Examiner Saindon and Agent Kevin Gust. During the interview, the prior art references cited by the Examiner were discussed. Applicant appreciates the time and effort taken by Examiner Saindon to review Applicant's present application and discuss the pending claims and the cited prior art.

Rejections under 35 U.S.C. § 101

Claims 1-9, 11-20, 22-26 and 28-33 were rejected under 35 U.S.C. § 101. Claims 1, 12, 23, 28 and 33 are amended herein. Accordingly, withdrawal of this rejection is respectfully requested.

Rejections under 35 U.S.C. § 112

Claims 11 and 22 were rejected under 35 U.S.C. § 112, second paragraph. Claims 11 and 22 are canceled herein.

Rejections under 35 U.S.C. § 102

Claims 11-9, 11-20, 22-26 and 28-33 were rejected under 35 U.S.C. § 102 (a and e) as anticipated by U.S. Publication No. 2002/0169654 ("Santos"). Applicant traverses the rejection. Claims 12, 23, 28 and 33 contain similar language as claim 1. Thus, the rejection will be addressed collectively as it pertains to claim 1.

Claim 1, as amended, recites:

A computer-implemented method for the optimization of a process, comprising:

matching a plurality of customers to a profile;
selecting an action from a set of actions associated with the profile using an action selection algorithm;
presenting the action to a customer of the plurality of customers associated with the profile;
receiving a response to the action from the customer;
repeating the selecting, presenting, and receiving steps for each customer of the plurality of customers so as to determine a distribution of customer responses to the actions;
on the computer, analyzing the distribution of responses to all actions of the set of actions presented to the customers associated with the profile, wherein the analysis identifies one action of the set of actions having a desired outcome; and
on the computer, updating the action selection algorithm, wherein future actions presented to customers associated with the profile are selected based on the updated action selection algorithm.

Thus, embodiments of a method for optimizing a process may include matching a customer to a profile, selecting an action from a set of actions associated with the profile using an action selection algorithm, presenting the action to a customer associated with the profile, receive a response to the action, and repeating the selecting, presenting and receiving steps to determine a distribution of customer responses to the actions. The distribution may be analyzed to identify one action of the set of actions having a desired outcome, and the action selection algorithm may be updated so that future actions presented to customers associated with the profile are selected based on the updated action selection algorithm.

Embodiments disclosed by Applicant utilize algorithms and response distributions to optimize a business objective, such as maximizing profit or net income. See, specification, para. 37. An action selection algorithm may select an action (i.e., a unique treatment or stimulus from a set of alternatives applicable to a specific context) to present to a customer (See, specification, para. 35.) An example of an action might be a specific agent “script” defined by a specific combination of questions, answers and special offers. An alternative action may possess the exact same questions, answers and special offers, but in a different order. (See, Specification, para. 21.) Thus, a first script may be presented to a first customer and a second script – having the exact same questions but in a different order – may be presented to a second customer. Applicant points out that because the actions contain the same content but are in a different order, the analysis of each script would, by definition, equal

the "average" and thus analyses of the data from using various scripts would produce the same result. In order to determine which script to present to a customer, embodiments disclosed by Applicant may use the response distribution to the two "scripts" as a basis for an algorithm. Embodiments disclosed by Applicant are not limited to two actions, and response distributions are not intended to result in an average distribution.

In the rejection, the Examiner relies on Santos to describe an average (which is calculated by an algorithm) as a response distribution. As mentioned in the Reply to Office Action dated January 23, 2008, Santos is focused on average customer behavior, and in particular teaches that groups are referred to as customer segments in which each group may be considered to be representative of a surrogate customer having "average" behavior for that segment. (See, Santos, paragraph 10.) Applicant respectfully submits that using an algorithm like Santos' algorithm would not result in determining the best action to take for optimizing a business objective, and therefore fails to teach or suggest the limitation of the analysis identifying one action of the set of actions having a desired outcome as recited in claim 1. Accordingly, withdrawal of this rejection is requested.

Rejections under 35 U.S.C. § 103

Claims 1, 12, 23, 28 and 33 were rejected under 35 U.S.C. § 103 as being obvious over Applicant's admitted prior art. In the rejection, the Examiner states that statements in paragraphs 46 and 38 are admissions by Applicant that portions of the claims claim only known elements being used in their known context for their known purpose. Applicant respectfully submits that the elements described by Applicant as known to those in the art do not render the claims obvious.

Regarding the Examiner's statement that paragraph 46 is admitted prior art, Applicant submits that the calculation of an estimate, distribution and forecast forms only a small part in a method for optimizing a process. In paragraph 46, Applicant states that a response forecast may consist of any type or combination of data. The response forecast is defined and represented in terms of a distribution. The response distribution may be based on the history of responses and may allow for the definition of a starting estimate when no historic data exists. However, Applicant submits that one skilled in the art may not know how a starting estimate could be defined, how a response definition may be represented in terms of a distribution, or other aspects of response forecasts disclosed in paragraph 46. For example, Applicant discloses assigning customers to profiles, which is an example of a method that may be useful

in determining a more accurate response distribution. Thus, although the calculation of an estimate, distribution and forecast may be known, the determination of what to estimate, who should be included in a response distribution, or what factors may be needed for an accurate forecast would not be known absent this disclosure.

Similarly, regarding the Examiner's statement that paragraph 38 is an admission of prior art, Applicant respectfully submits that although the methods used to formulate a response algorithm may be known to those skilled in the art, the determination of whether to use response distributions and/or business inputs or the determination of a specialized selection algorithm used to maximize profit subject to the uncertainties of the revenue payoff of each action (where costs vary with successive profiled customers) would not be obvious without Applicant's disclosure. For at least the foregoing reasons, Applicant respectfully submits that paragraphs 46 and 38 do not constitute an admission by Applicant that the embodiments claimed in Claim 1 were known to those skilled in the art at the time of the invention. Accordingly, withdrawal of this rejection is requested.

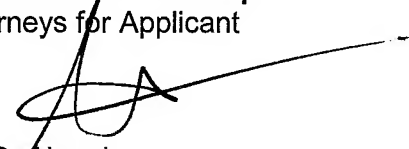
Conclusion

Applicant has now made an earnest attempt to place this case in condition for allowance. Other than as explicitly set forth above, this reply does not include an acquiescence to statements, assertions, assumptions, conclusions, or any combination thereof in the Office Action. For the foregoing reasons and for other reasons clearly apparent, Applicant respectfully requests full allowance of Claims 1-4, 6-9, 12-17, 19-20, 23-24, 28-29 and 33. The Examiner is invited to telephone the undersigned at the number listed below for prompt action in the event any issues remain.

The Director of the U.S. Patent and Trademark Office is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 50-3183 of Sprinkle IP Law Group.

Respectfully submitted,

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